



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/578,461

05/08/2006

Clemens Schwab

510.1157

2110

23280 7590 07/29/2011
Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York, NY 10018

EXAMINER

APICELLA, KARIE O

ART UNIT

PAPER NUMBER

1726

MAIL DATE

DELIVERY MODE

07/29/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CLEMENS SCHWAB

Appeal 2010-003579
Application 10/578,461
Technology Center 1700

Before BRADLEY R. GARRIS, LINDA M. GAUDETTE, and
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 5 through 14. We have jurisdiction pursuant to 35 U.S.C. § 6.

We REVERSE.

STATEMENT OF THE CASE

The subject matter on appeal is directed to a fuel system and its method of use. Claim 5 is illustrative:

5. A fuel cell system for mobile use comprising:

a fuel cell unit for generating electrical energy and fuel cell waste products;

a cooling circuit assigned to the fuel cell unit and having a heat exchanger downstream of the fuel cell unit;

an adsorption accumulator assigned to the fuel cell unit and forming a heat store adapted to release heat when adsorbing the fuel cell waste products, the adsorption accumulator being operatively thermally connected to the heat exchanger;

a first line connected to the fuel cell unit discharging the fuel cell waste products from the fuel cell unit; and

a second line connecting the first line to the adsorption accumulator for feeding the fuel cell waste products to the adsorption accumulator.

The Examiner maintains the rejection of claims 5-14 under 35 U.S.C. § 102(b) as anticipated by Honda (JP 10-144333, published May 29, 1998).

ISSUE

Did Appellant establish that the Examiner reversibly erred in finding that Honda teaches the first and second lines capable of feeding fuel cell waste products from the fuel cell unit to the adsorption accumulator as required by claim 5 and that the fuel cell waste products are fed to the adsorption accumulator as required by claim 7 within the meaning of § 102(b)? We decide this issue in the affirmative.

PRINCIPLE OF LAW

Under 35 U.S.C. § 102, anticipation is established only when a single prior art reference describes, either expressly or under the principle of inherency, each and every element of a claimed invention. *See In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990).

FACTUAL FINDINGS, ANALYSIS, AND CONCLUSION

Appellant argues that Honda does not teach first and second lines capable of feeding fuel cell waste products from the fuel cell unit to the adsorption accumulator as required by claim 5. (App. Br. 5 and 6). In addition, Appellant argues that Honda does not teach that fuel cell waste products are fed to the adsorption accumulator as required by claim 7. *Id.* at 8 and 9. We agree with both of these arguments.

While the Examiner alleges (Ans. 3-5 and 8-15) that Honda's Figures 1 and 2 and paragraphs [0009]-[0013], [0018]-[0020], and [0023] support the Examiner's finding that Honda teaches the disputed claim features, a close examination of these portions of Honda reveals that nowhere does Honda teach first and second lines capable of accepting fuel cell waste

products from the fuel cell unit and feeding them to the adsorption accumulator as required by claim 5 or that the fuel cell waste products are fed to the adsorption accumulator as required by claim 7.

Indeed, as correctly pointed out by Appellant, “Honda et al. does not even mention what happens with waste products of fuel cell 2.” (App. Br. 6). In this regard, Honda’s Figures 1 and 2 plainly illustrate that heat exchange fluid passing through heat exchanger 25 is in a closed system and separate from any water produced in the fuel cell. *Id.*

The Examiner simply fails to direct us to any portion of Honda that teaches the disputed claim features.

Accordingly, we reverse the Examiner’s rejection of claims 5-14 under § 102(b).

ORDER

The Examiner’s decision is reversed.

REVERSED

bar